

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARTIN MARKOWICZ,

Plaintiff,

v.

ROYAL OAK POLICE DEPARTMENT,
KORB, VON OCHTEN, HILL, A & M
TOWING YARD IMPOUND, STANTON,
ISAACSON, SPELLMAN, BOBEK,
STIENKE, and JAY,

Defendants.

Case No. 15-cv-11212-LJM-PTM
Honorable Laurie J. Michelson
Magistrate Judge Patricia T. Morris

**ORDER GRANTING ROYAL OAK DEFENDANTS' MOTION FOR JUDGMENT ON
THE PLEADINGS [40] AND DISMISSING DEFENDANTS JAY AND A & M
TOWING YARD IMPOUND**

Before the Court is Magistrate Judge Patricia T. Morris' Report and Recommendation. (R. 43.) At the conclusion of her Report and Recommendation, Magistrate Judge Morris notified the parties that they were required to file any objections within fourteen days of service, as provided in Federal Rule of Civil Procedure 72(b)(2) and Eastern District of Michigan Local Rule 72.1(d), and that "[f]ailure to file specific objections constitutes a waiver of any further right of appeal." (R. 43, PID 188–89.) The time to file objections has expired and no objections have been filed.

The Court finds that the parties' failure to object is a procedural default, waiving review of the Magistrate Judge's findings by this Court. In *United States v. Walters*, 638 F.2d 947, 949–50 (6th Cir. 1981), the Sixth Circuit established a rule of procedural default, holding that "a party shall file objections with the district court or else waive right to appeal." And in *Thomas v. Arn*, 474 U.S. 140, 144 (1985), the Supreme Court explained that the Sixth Circuit's waiver-of-

appellate-review rule rested on the assumption “that the failure to object may constitute a procedural default waiving review even at the district court level.” 474 U.S. at 149; *see also Garrison v. Equifax Info. Servs., LLC*, No. 10-13990, 2012 WL 1278044, at *8 (E.D. Mich. Apr. 16, 2012) (“The Court is not obligated to review the portions of the report to which no objection was made.” (citing *Thomas*, 474 U.S. at 149–52)). The Court further held that this rule violates neither the Federal Magistrates Act nor the Federal Constitution.

The Court therefore finds that the parties have waived further review of the Magistrate Judge’s Report and accepts her recommended disposition. It follows that the motion for judgment on the pleadings filed by Defendants Detective Von Ochten, Sergeant Stanton, Officer Isaacson, Officer Spellman, Officer Bobek, Officer Stienke, Officer Hill, Officer Korb, and Royal Oak Police Department is GRANTED and that Defendants Jay and A & M Towing Yard Impound are DISMISSED. As this order resolves this litigation, a separate judgment will issue.

SO ORDERED.

Dated: January 3, 2017

s/Laurie J. Michelson
LAURIE J. MICHELSON
U.S. DISTRICT JUDGE

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court’s ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on January 3, 2017.

s/Keisha Jackson
Case Manager